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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,127

Applicant(s)

SOREBO ET AL.

Examiner

C. Lynne Anderson

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, and 8-13 are rejected under 35 U.S.C. 102(b) as anticipated by Hoeppner (2,709,467).

Hoeppner discloses an absorbent article package, as shown in figure 9, comprising a shirt, which is formed from fabric and therefore an absorbent article, and a wrapper material. The wrapper material is configured into a pouch having a front surface 2 and a back surface 3, closed bottom 4 and sides, and an open top 5, as shown in figures 1 and 2. A panel 6 is disposed across the back surface 3, as shown in figure 2, the panel 6 having a top edge opposite the top edge of the front surface, and a bottom edge. The side edges 7 of the panel 6 are sealed to the pouch sides, the panel 6 having a length of less than half the length of the back surface 3, as shown in figure 2. The panel 6 is pulled over the open top 5 to seal the open top 5 by a single material layer, as shown in figures 5-8. The panel 6 is pulled back over the open top 5 to unseal the pouch.

With respect to claim 2, the panel 6 is formed of the wrapper material and contiguous with the back surface 3, as shown in figure 4.

With respect to claim 3, the wrapper material comprises a continuous strip of material defining the front and back surfaces and the panel, as shown in figure 11.

With respect to claim 4, the pouch sides are sealed, and the sides of the panel 6 are sealed to the pouch sides, as disclosed in column 3, lines 53-55, and column 4, lines 1-15.

With respect to claim 6, the wrapper material comprises a liquid impervious film layer, as disclosed in column 60-62.

With respect to claim 8, the open top 5 is defined by aligned ends of the back surface 3 and the front surface 2, as shown in figure 1.

With respect to claim 9, Hoeppner discloses a wrapper material configured into a pouch having an open top 5, as shown in figure 1, having an absorbent article, a shirt, carried therein. A portion 6 of the wrapper material is folded at a fold axis coextensive with the open top 5 so as to extend along a back surface 3 of the pouch, as shown in figure 2. The pouch is closed upon positioning the single material layer of the portion 6, as shown in figure 8. The sides 7 of the portion 6 are bonded to the sides of the pouch, as disclosed in column 8-15, and the bottom edge of the portion 6 is unbonded to the back surface 3 between bonded sides 7, as shown in figure 4.

With respect to claim 10, the portion 6 extends less than half way down the back surface 3, as shown in figure 2.

With respect to claim 11, the pouch has a closed bottom defined by fold 4, as disclosed in column 3, lines 49-53.

With respect to claim 12, the pouch has sealed sides defined by bonded sides of the wrapper material extending from the fold 4 to the open top 5, as disclosed in column 3, lines 53-55.

With respect to claim 13, the instant claim is drawn to a product of manufacture. The pouch of Hoeppner discloses the identical structure of the instant invention, and functions in an identical fashion to the instant invention. The pouch of Hoeppner therefore fulfills all limitations of the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoeppner (2,709,467).

Hoeppner discloses all aspects of the claimed invention with the exception of the panel extending one-third of the way down the back surface. Hoeppner shows the panel extending about one-fourth of the way down the back surface. It would have been an obvious matter of design choice to extend the panel of Hoeppner one-third of the way down the back surface, since the applicant has not shown that extending the panel one-third of the way solves any stated problem or serves any particular purpose, and it appears the pouch would

function equally well with the panel extending one-third or one-fourth of the way down the back surface.

Claims 1-6 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izzo (4,493,713) in view of Hoepfner (2,709,467).

Izzo discloses all aspects of the claimed invention with the exception of the panel having side edges sealed to the pouch sides. Izzo discloses an absorbent article package 10 holding an absorbent article 42, as shown in figure 3. The package 10 comprises a wrapper material 16 configured into a pouch 40 having front and back surfaces 26 and 32, a closed bottom 24 and sides 28 and 30, and an open top, as shown in figures 2 and 3. A panel 36 is disposed across the back surface 26, as shown in figure 2, having a top edge contiguous with the open top and a bottom edge.

Hoepfner discloses an absorbent article package, as shown in figure 9, comprising a wrapper material. The wrapper material is configured into a pouch having a front surface 2 and a back surface 3, closed bottom 4 and sides, and an open top 5, as shown in figures 1 and 2. A panel 6 is disposed across the back surface 3, as shown in figure 2, the panel 6 having a top edge opposite the top edge of the front surface, and a bottom edge. The side edges 7 of the panel 6 are sealed to the pouch sides, the panel 6 having a length of less than half the length of the back surface 3, as shown in figure 2. The panel 6 is pulled over the open top 5 to seal the open top 5 by a single material layer, as shown in figures 5-8. The panel 6 is pulled back over the open top 5 to unseal the pouch. The

pouch disclosed by Hoeffner comprising the panel provides ease of use and the ability to open and re-use the pouch, as disclosed in column 2, lines 44-62.

It would therefore have been obvious to one of ordinary skill in the art at the time of invention to construct the pouch of Izzo with the panel closure taught by Hoeppner to provide ease of use and the ability to open and re-use the pouch.

With respect to claim 2, the panel 6 is formed of the wrapper material and contiguous with the back surface 3, as shown in figure 4.

With respect to claim 3, the wrapper material comprises a continuous strip of material defining the front and back surfaces and the panel, as shown in figure 11.

With respect to claim 4, the pouch sides are sealed, and the sides of the panel 6 are sealed to the pouch sides, as disclosed in column 3, lines 53-55, and column 4, lines 1-15.

With respect to claim 5, it would have been an obvious matter of design choice to extend the panel of Hoeppner one-third of the way down the back surface, since the applicant has not shown that extending the panel one-third of the way solves any stated problem or serves any particular purpose, and it appears the pouch would function equally well with the panel extending one-third or one-fourth of the way down the back surface.

With respect to claim 6, the wrapper material comprises a liquid impervious film layer, as disclosed in column 60-62.

With respect to claim 8, the open top 5 is defined by aligned ends of the back surface 3 and the front surface 2, as shown in figure 1.

With respect to claim 9, Hoeppner discloses a wrapper material configured into a pouch having an open top 5, as shown in figure 1, having an absorbent article, a shirt, carried therein. A portion 6 of the wrapper material is folded at a fold axis coextensive with the open top 5 so as to extend along a back surface 3 of the pouch, as shown in figure 2. The pouch is closed upon positioning the single material layer of the portion 6, as shown in figure 8. The sides 7 of the portion 6 are bonded to the sides of the pouch, as disclosed in column 8-15, and the bottom edge of the portion 6 is unbonded to the back surface 3 between bonded sides 7, as shown in figure 4.

With respect to claim 10, the portion 6 extends less than half way down the back surface 3, as shown in figure 2.

With respect to claim 11, the pouch has a closed bottom defined by fold 4, as disclosed in column 3, lines 49-53.

With respect to claim 12, the pouch has sealed sides defined by bonded sides of the wrapper material extending from the fold 4 to the open top 5, as disclosed in column 3, lines 53-55.

With respect to claim 13, the instant claim is drawn to a product of manufacture. The pouch of Hoeppner discloses the identical structure of the instant invention, and functions in an identical fashion to the instant invention. The pouch of Hoeppner therefore fulfills all limitations of the claim.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Izzo (4,493,713) in view of Hoeppner (2,709,467) as applied to claim 1 above, and further in view of Balzar et al. (6,036,679).

Izzo, as modified by Hoeppner, discloses all aspects of the claimed invention with the exception of the wrapper material being a film/non-woven laminate. Balzar teaches the use of a film/non-woven laminate as the wrapper material for an absorbent article, as disclosed in column 4, lines 20-29, to provide a suitably strong yet thin wrapper material. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the pouch of Izzo from a film/non-woven laminate, as taught by Balzar, to provide a suitably strong yet thin wrapper material.

Response to Arguments

Applicant's arguments filed 20 August 2004, with respect to the rejection(s) of claim(s) 1-13 over Izzo in view of Clayton have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hoeppner.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 571-272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 23, 2004

L. I. Schwartz

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